

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on November 6, 2003.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits, neuromuscular re-education, myofascial release, electrical stimulation, kinetic activities, therapeutic procedures, physical medicine treatment, manual traction therapy rendered on 11/15/02 through 9/17/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On January 28, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	MAR	EOB Denial Code	Rationale
2/4/03	99213-MP	\$55.00	\$0.00	\$48.00	No EOB	Review of the requestors and respondents documentation revealed that neither party submitted copies of EOBs, however, review of the recon HCFA supported proof of submission. Therefore, the disputed service will be reviewed according to the 1996 Medical Fee Guidelines. The requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of \$66.00.
6/5/03	99211	\$30.00	\$0.00	\$18.00	No EOB	
TOTAL		\$85.00	\$0.00	\$66.00		

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 2/4/03 through 6/5/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 8th day of October 2004.

Margaret Q. Ojeda
Medical Dispute Resolution Officer
Medical Review Division

MQO/mqo

January 23, 2004

Amended January 29, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-04-0731-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any

of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ____ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

____, a 29-year-old woman, sustained injury to her right hand on _____. After undergoing two hand surgeries and extensive physical medicine treatments she was determined to have a 5% whole person impairment.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, neuromuscular reeducation, myofascial release, electrical stimulation, kinetic activities, therapeutic procedures, physical medicine treatment, and manual traction therapy.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

This was a surgical case from start to finish and the reviewer finds that the carrier erred by needlessly delaying approval. On the other hand, since this was a surgical case, none of the referenced care by Dr. L. was indicated, effective or medically necessary. Although there are a plethora of bases to support this later position, the reviewer will outline only the most important.

In the January 15, 2004 unsigned letter from ____, the writer misstates the opinion of designated doctor M. The letter said, "Dr. M. proceeds to recommended (sic) continued therapy as well as to follow up with the hand specialist, Dr. P." Actually, after recommending a second surgery, Dr. M. said, "She would need to continue postoperative physical therapy." Recommending postoperative care, if and when the second surgery is performed, is a far cry from advocating "continued therapy" during the interim as claimed by the writer.

In an effort to justify the extensive care provided, the January 15th unsigned letter alleges the patient's condition to be chronic and thus is the basis for the frequency and intensity of the visits. The documentation supplied does not support that position. Rather, the documentation supplied by multiple providers more accurately indicates, as stated early, that this was a surgical case with the patient ultimately improving after the correct surgical procedure was performed.

Other than changing the text in the “Assessment” section of the physician’s medical records, each day’s notes used the exact or essentially the same “boilerplate” language. In fact, most of the daily treatment records could be superimposed upon each other. For that reason, there were non-legitimate treatment notes to consider and thus no documentation for the medical necessity of the treatments.

This cavalier attitude towards proper record keeping was most egregious before and after the patient’s two surgeries on March 11, 2003 and August 5, 2003. When the patient first returned to the treating doctor on March 31, 2003 after her first surgery, no mention of the surgery was made, nor was any change in treatment (now post-operative) recorded. When the patient returned to the treating doctor on August 20, 2003 after the second surgery, it is mentioned in passing, but again, there was no change in treatment (now post-operative) recorded. For that reason, the medical necessity of even the postoperative care, recommended by Dr. M. and referenced previously, cannot be determined nor documented.

____ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ____ has made no determinations regarding benefits available under the injured employee’s policy

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,